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Supreme Court, U.S.
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No. ~~605~~ 49

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In the

Supreme Court of the United States

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BAIN PEANUT COMPANY OF TEXAS, ET AL., *Appellants,*

vs.

DAVE PINSON AND C. B. GUYGER, *Appellees.*

—o—

Appeal from the Court of Civil Appeals for the Eleventh Supreme Judicial District of Texas

—o—

STATEMENT IN SUPPORT OF JURISDICTION UNDER RULE TWELVE

—o—

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and
B. G. MANSELL,
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INDEX

	Page
Preliminary Statement	1-2
The point here relied upon by appellants for reversal	2-3
General Statement, showing outline of proceedings below and	3-7
(a) Date of judgment to be reviewed	3-4
(b) Date when State Supreme Court finally declined to review said judgment	5-6
(c) Presentation and allowance of petition for appeal and steps looking to perfecting this appeal	6-7
Specific Statement showing in detail the proceedings below, the presentation of the Federal question in each State Court, the rulings thereon and that appellants exhausted every remedy provided under the State procedure for relief	2-14
Statement showing that the Federal question urged is of a substantial nature	14-16
Federal Statutes under which jurisdiction is asserted	16
Prayer	17
Appendix	18-24

STATUTES

United States Judicial Code, Sec 237 (a) and (b)	16
Texas Revised Civil Statutes, 1925:	
Article 1728, Sub. 3	9
Article 1739-1740-1742	10
Article 1750	11
Article 1762	11
Article 1820	8
Article 1877	8
Article 1883	11
Article 1995, Sub. 23	2, 8, 15
Article 2007	7
Article 2010, Sub. 7	7

AUTHORITIES

Page

American Ry. Express Co. vs. Levee, 263 U. S. 19; 68 L. Ed. 140 12

Andrews vs. Ry. Co., 248 U. S. 272; 63 L. Ed. 236 12

Bacon et al vs. State of Texas, 163 U. S. 207; 41 L. Ed. 274 ..... 6, 12

Bain Peanut Co. vs. Pinson & Guyger, 19 S. W. (2d) 203 1

C. & G. W. Ry. Co. v. Basham, 249 U. S. 164; 63 L. Ed. 534 13

Christinson vs. Foster, 297 S. W. 657 13

Citizens Bank of Michigan City vs. Opperman, 249 U. S. 448; 63 L. Ed. 701 13

Dublin Mill & Elevator Co. vs. Cornelius, 5 S. W. (2nd) 1027 14

Frost vs. Corporation Com. of Okla., 278 U. S. 515; 73 L. Ed. 483 15

Grayburg Oil Co. vs. Powell, 15 S. W. (2nd) 542 ..... 4, 14

Kentucky Finance Co. vs. Paramount Auto Exch. Co., 262 U. S. 544; 67 L. Ed. 1112 15

Liggett vs. Baldridge, 278 U. S. 105; 73 L. Ed. 204 15

Matthews vs. Huve, 269 U. S. 262; 70 L. Ed. 266 12

Norfolk & So. Turnpike Co. vs. Virginia, 225 U. S. 264; 56 L. Ed. 1082 12

Northern Pacific Co. vs. Holmes, 155 U. S. 137; 39 L. Ed. 99 13

Power Mfg. Co. vs. Saunders, 274 U. S. 490; 71 L. Ed. 1165 ..... 13, 14, 15

Quaker City Cab Co. vs. Pennsylvania, 277 U. S. 389; 72 L. Ed. 927 16

Robertson—Appellate Practice and Procedure in the Supreme Court of the United States 13

Roth vs. Murray, 105 Texas 6; 141 S. W. 515 9

AUTHORITIES—(Continued)

Page

S. A. & A. P. Ry. Co. vs. Blair, 108 Texas 434; 196 S. W. 502 9

Sovereign Camp, W. O. W. vs. Ruedrich, 158 S. W. 170 7

St. Louis, San Francisco & Tex. Ry. Co. vs. Seale, 229 U. S. 156; 57 L. Ed. 1129 ..... 6, 12

Sullivan vs. State of Texas, 207 U. S. 416; 52 L. Ed. 274 ..... 6, 12

T. & P. Ry. Co. vs. Murphy, 111 U. S. 488; 28 L. Ed. 492 13

Western Union Tel. Co. vs. Crovo, 220 U. S. 264; 55 L. Ed. 498 12

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To The Honorable Supreme Court of the United States:

I.
PRELIMINARY STATEMENT

This is an appeal from the Court of Civil Appeals for the Eleventh Supreme Judicial District of Texas, allowed by the Honorable John Edward Hickman, Chief Justice thereof. The judgment appealed from was rendered July 12, 1929, but became final, for purposes of review by the United States Supreme Court, upon an order by the State Supreme Court overruling a motion for rehearing upon petition for writ of error from that Court to the Court of

Civil Appeals on January 22, 1930. The appeal was allowed January 23, 1930. The majority and dissenting opinions of the Court of Civil Appeals are reported in ..... Tex. Civ. App. .....; 19 S. W. (2nd) 203-207, (R. 69).

II.

POINT UPON WHICH APPELLANTS RELY FOR REVERSAL

Conformably to Section 9, Rule 13 of the United States Supreme Court appellants have designated the following as the only point upon which they rely here for reversal of the judgment below:

That the following portion of Section 23, Article 1995, Revised Civil Statutes of Texas, formerly Sec. 24, Art. 1830, R. C. S., viz:

> "Suits against a private corporation, Association, or joint stock company, may be brought in any county in which the cause of action, or a part thereof, arose"—

violates the equal protection clause of the Fourteenth Amendment to the United States Constitution, by arbitrarily discriminating against the class of litigants therein named. And said statute, as upheld and applied by the Court of Civil Appeals in this case, denied appellant Bain Peanut Company of Texas, a private corporation domiciled in Tarrant County, Texas, of the equal protection of law to which it is entitled under the Constitution as a citizen of the United States, by subjecting it to suit in Commanche County upon allegation and proof alone that "the cause of action, or a part thereof, arose," in Commanche County; other classes of defendants than those

mentioned in said statute not being subject to suit outside their domiciliary counties in a similar situation.*

III.

GENERAL STATEMENT OF PROCEEDINGS BELOW, INCLUDING PERFECTING OF THIS APPEAL

It is submitted that the United States Supreme Court has jurisdiction to reveiw and reverse the case on this appeal because of the following matters manifest of record.

Appellant Bain Peanut Company of Texas (hereinafter simply called Bain Peanut Company), is a private corporation, organized under the laws of the State of Texas, having its domicile in Tarrant County, Texas (R. 2 and 28). It was sued in the District Court of Comanche County, Texas for damages arising from alleged breach of contract, and in due time and form presented a statutory motion for change of venue to Tarrant County, designated under the local practice as a plea of privilege. Appellees controverted the plea of privilege (R. 9-11), seeking to maintain venue of the suit in Comanche County upon allegation and proof alone of the following facts:

(a) that Bain Peanut Company was a private corporation, and

(b) that the alleged cause of action arose in Comanche County Texas (R. 9 and 10).

Said appellant replied by amended plea of privilege (R 12-14), by which it demurred generally to the legal sufficiency of the controverting affidavit, and again prayed

*See complete Venue Act, Appendix.

that the case be transferred to Tarrant County for trial. The demurrer was overruled and exception saved (R. 15). There was a jury trial resulting in judgment against said appellant for $6,805.40 (R. 19). Bain Peanut Company filed an assignment of error in the trial court attacking the validity of subdivision 23 of Article 1995, Revised Civil Statutes of Texas, under which appellees maintained venue in Comanche County; the ground of attack being that said Statute violated the Fourteenth Amendment to the Constitution of the United States as attempting a discriminating classification between individuals and private corporations with respect to venue, and complaining of the action of the court in overruling its said demurrer (R. 21).

On appeal, the Court of Civil Appeals submitted to the State Supreme Court a certified question seeking an opinion as to the validity of the portion of the statute in question; stating that its validity had been challenged as being repugnant to the Fourteenth Amendment of the Constitution of the United States, and that was necessary "for a correct disposition of the appeal, to determine whether the trial court erred in overruling the demurrer to the controverting plea," (R. 28). Before the Supreme Court answered said certified question it sustained the statute, against the constitutional objection urged, in another case, *Grayburg Oil Company vs. Powell,* ..... Texas .....; 15 S. W. (2d) 542. Whereupon the Court of Civil Appeals withdrew the certified question (R. 30), and on July 12, 1929, entered its judgment affirming the judgment of the trial court; likewise rendering judgment against appellant United States Fidelity & Guaranty Company (Surety on the supersedeas bond of Bain Peanut Company from the District Court of Comanche County,

to the Court of Civil Appeals), for the amount of the judgment below, interest and costs (R. 27); hence the joinder of said appellant in this appeal.

The Court of Civil Appeals sustained said statute, against the Federal constitutional question here urged, and affirmed the judgment of the trial court in overruling the demurrer of Bain Peanut Company to the controverting plea. (R. 35.)

As provided by Article 1877, Revised Civil Statutes, Bain Peanut Company filed its motion for rehearing in the Court of Civil Appeals within 15 days after July 12, 1929, (R. 49). The Federal constitutional question was again urged in said motion for rehearing (R. 48 and 49). The Court of Civil Appeals overruled the motion for rehearing October 18, 1929, (R. 50). Within the thirty day period allowed by Article 1742, Revised Civil Statutes, Bain Peanut Company filed its petition for writ of error from the Supreme Court of the State in the Court of Civil Appeals, assigning, among other grounds of jurisdiction, the Federal question here urged, (R. 51-54). The State Supreme Court on December 11, 1929, dismissed the petition for writ of error as for want of jurisdiction, (R. 63). Bain Peanut Company within fifteen days from the date of the order, as provided by Article 1762, Revised Statutes, filed in and presented to the State Supreme Court its motion for rehearing on petition for writ of error, praying reconsideration of the former action and again presenting the Federal constitutional question under discussion, (R. 60). The motion for rehearing was overruled by the Supreme Court January 22, 1930, (R. 63). The State Supreme Court thus finally declined to take jurisdiction of

the case; and the judgment of the Court of Civil Appeals became the final judgment as of January 22, 1930, and is in this case the judgment of the highest court of the State of Texas in which a decision can be had.

Bacon et al vs. State of Texas, 163 U. S. 207; 41 L. Ed. 132.

Sullivan vs. State of Texas, 207 U. S. 416; 52 L. Ed. 274.

St. Louis, San Francisco & Texas Ry. Co. vs. Maude Seale, 229 U. S. 156, 57 L. Ed. 1129.

On January 23, 1930, appellants presented to Honorable John Edward Hickman, Chief Justice of our said Court of Civil Appeals, a petition for allowance of an appeal to the United States Supreme Court, coupled with an assignment of error presenting the Federal question here urged (R. 65-69); a prayer for stay of execution and supersedeas (R. 71-72); and a supersedeas appeal bond in the sum of $10,000 (R. 74-76). On the same day the appeal was allowed by Chief Justice Hickman and the bond fixed (R. 69), the supersedeas granted (R. 72-73), and the bond approved and filed (R. 76), and the requisite citation issued. The citation and appellants' praecipe were served January 27, 1930, on one of appellees' attorneys of record, and said documents, together with return showing such service filed with the Clerk of the Court of Civil Appeals January 31, 1930, (R. 77-78, and 79-82). The certified record was filed in the United States Supreme Court, February 15, 1930. Appellants have designated the point upon which they rely for reversal and the portions of the record to be printed, secured service thereof, and have

filed same in this Court with proof of service within fifteen days after the case was here docketed.

IV.

DETAILED STATEMENT OF PROCEEDINGS BELOW, SHOWING PRESENTATION OF THE FEDERAL QUESTION IN EACH OF THE STATE COURTS, RULINGS THEREON, AND THAT APPELLANTS HAVE EXHAUSTED EVERY REMEDY PROVIDED UNDER STATE PROCEDURE FOR RELIEF.

Appellees, plaintiffs in the trial court, alleged that Bain Peanut Company was—

> "A private corporation duly incorporated and doing business under the laws of the State of Texas, with its principal office and place of business at Fort Worth in Tarrant County, Texas—" (R. 2).

Under Subdivision 7, Article 2010 Revised Civil Statutes of the State of Texas, an allegation in the pleadings of either party that the other party is a private corporation establishes the fact of such corporate character, in the absence of a sworn denial of such allegation.

> *Sovereign Camp W. O. W. vs. Ruedrich*, ... Tex. Civ. App. .....; 158 S. W. 170.

Bain Peanut Company made no such denial.

By Article 2007, Revised Civil Statutes, it is provided that a plea of privilege sworn to and conforming to the requirements thereof

> "Shall be prima facie proof of the defendant's right to change of venue."

The sufficiency of the plea of privilege (R. 12-14) was not questioned. The Court of Civil Appeals treated it as sufficient, holding in effect that it should have been granted but for the conclusion that the challenged statute was valid (R. 28-29, and 35). The Court of Civil Appeals by the certified question (R. 28), expressly found that Bain Peanut Company was a private corporation and that its domicile was in Tarrant County; and by necessary implication so found in its opinion (R. 35), in sustaining the validity of Subdivision 23, Article 1995, Revised Civil Statutes, and thus disposing of the demurrer to Appellees' controverting affidavit as necessary to a proper disposition of the appeal. Article 1820, Revised Civil Statutes, provides:

> "The judgment of the Court of Civil Appeals shall be conclusive in all cases on the facts of the case."

The Court of Civil Appeals entered its judgment of affirmance and rendered its opinion July 12, 1929. Article 1877 R. C. S. provides:

> "Any party desiring a rehearing of any matter determined by any Court of Civil Appeals, may, within fifteen days after the date of entry of the judgment or decision—file with the Clerk of said court his motion for rehearing thereof, in which the ground relied upon for the rehearing shall be distinctly specified," etc.

The motion for rehearing was filed July 27, 1929, (R. 49).

The motion for rehearing was a second motion, but it will be observed that the opinion and judgment dated July 12, 1929, were substituted for an opinion and judgment previously rendered and withdrawn. In such situa-

tion the State Supreme Court has held a second motion for rehearing to be an essential predicate for a petition for writ of error from that Court to a court of civil appeals.

Knox vs. McElroy, 103 Texas, 357; 127 S. W. 798;
Roth vs. Murray, 105 Texas, 6; 141 S. W. 515.

The second motion for rehearing was overruled by the Court of Civil Appeals, October 18, 1929. (R. 50.)

The jurisdiction of the Supreme Court of Texas is defined by Article 1728 R. C. S., viz:

Art. 1728:

"The Supreme Court shall have appellate jurisdiction co-extensive with the limits of the State, extending to all questions of law arising in the following cases when same shall have been brought to the Courts of Civil Appeals from final judgment of trial courts: * * *

3. Those involving the construction or validity of statutes necessary to a determination of the case."

But a review by the Supreme Court of Texas is not allowed as a matter of right; it is gracious and discretionary, and must be sought by petition for writ of error to the Courts of Civil Appeals. The Supreme Court of Texas in *S. A. & A. P. Ry. Co. vs. Blair*, 108 Texas 434; 196 S. W. 502, says:

"* * * Neither the right of appeal to the Supreme Court nor the manner of its exercise is mentioned in the Constitution.

"With this true, it is not to be questioned that the Legislature has the authority to establish the manner in which the appeal shall be taken, and, in doing so, declare *where shall rest the authority of determining the right to have it entertained*. Titus vs. Latimer, 5 Tex. 433.

"To fix any given mode for an appeal is but to prescribe a regulation by means of which jurisdiction to hear the appeal may be acquired. To vest in the appellate court itself, or in some other authority, *a discretionary power of deciding whether the appeal shall lie*, is equally only a regulation of the manner in which the appeal is to be taken. * * *

"The Legislature inaugurated the writ of error practice as the method whereby the appellate jurisdiction of the Supreme Court might be acquired. *It also lodged in the Supreme Court the authority of determining the merits of the grounds advanced for the issuance of the writ and, hence, when it should be allowed.*" (Italics ours.)

The procedure upon petition for writ of error is found in Articles 1739, 1740 and 1742, R. C. S., viz:

Article 1739:

"The Supreme Court MAY review final judgments of Courts of Civil Appeals upon writ of error, when good cause therefor be shown by application for such writ, as hereinafter required, the sufficiency of such cause to be determined as herein provided."

Article 1740:

"A writ of error before the Supreme Court may be applied for by petition addressed to said Court, stating the nature of the case and the grounds upon which the writ of error is prayed for, and showing that the Supreme Court has jurisdiction thereof; and the petition shall contain such other requisites as may be prescribed by the Supreme Court."

Article 1742:

"The petition shall be filed with the clerk of the Court of Civil Appeals within thirty days from the overruling of the motion for rehearing."

The petition for writ of error was filed with the Clerk of the Court of Civil Appeals the 11th day of November, 1929

(R. 55-56), and in the Supreme Court the 14th day of November, 1929, in obedience to Article 1883. Said petition for writ of error urged the invalidity of the Statute in question because of the Federal Constitutional claim asserted, and assigned as error the action of the Court of Civil Appeals in sustaining its validity. (R. 51-55.)

The Court of Civil Appeals expressly held that a decision as to the constitutionality of the statute was necessary to "a correct disposition of the appeal." (R. 28.)

The petition for writ of error was dismissed for want of jurisdiction December 11, 1929. The effect of that order is indicated by Article 1750, viz:

> "* * * The refusal or dismissal of an application shall have the effect of denying the admission of the cause into the Supreme Court."

Article 1762 provides that:

> "A motion for rehearing may be filed with the Clerk of the Court (Supreme Court) within fifteen days after the date of the entry of the judgment or decision, and not later."

A motion for rehearing, again urging upon the Supreme Court the Federal question here involved, was filed within fifteen days after December 11, 1929, to-wit, on December 21, 1929 (R. 59-61), and on January 22, 1930, that motion was overruled (R. 63). Second or additional motions for rehearing are not provided for in the State Supreme Court.

It is thus seen that the case falls within that class of which appellate jurisdiction is given to the State Supreme Court and that the order of that Court dismissing the petition for writ of error as for want of jurisdiction simply

evidences its refusal to exercise the discretionary jurisdiction conferred upon it.

Appellants understand this Court to hold that a review will never be granted here until the complaining party has exhausted every remedy and procedure looking to a review by the highest court of the State; and that it is immaterial that the precise question urged had been previously decided by the highest court of the State in another case.

Mathews vs. Huve, 269 U. S., 262; 70 L. Ed. 266.

And having thus exhausted the State procedure in seeking a reversal of the judgment below and having failed to secure a review by the Supreme Court of Texas, the Court of Civil Appeals is the highest Court of Texas in which a decision of this cause could be had; and the appeal properly runs from that court to the United States Supreme Court.

Bacon et al vs. State of Texas, 163 U. S. 207; 41 L. Ed. 132.

Sullivan vs. State of Texas, 207 U. S. 416; 52 L. Ed. 274.

St. Louis, San Francisco & Texas Ry. Co. vs. Maude Seale, 229 U. S. 156; 57 L. Ed. 1129;

Western Union Telegraph Co. vs. Crovo, 220 U. S., 264; 55 L. Ed. 498;

Norfolk & Southern Turnpike Co. vs. Virginia, 225 U. S., 264; 56 L. Ed. 1082;

American Ry. Express Co. vs. Levee, 263 U. S. 19; 68 L. Ed. 140.

And the time for perfecting this appeal runs from January 22, 1930, when the State Supreme Court overruled the motion for rehearing on petition for writ of error.

Andrews vs. Railway Co., 248 U. S. 272; 63 L. Ed. 236;

Section 8 (a) of the Act of Congress of February 13, 1925, (43 St. L. 936; U. S. Code, Title 28, Sec. 350);

Robertson—Appellate Practice and Procedure in the Supreme Court of the United States, P. 4, Sec. 4;

T. P. Ry. Co. vs. Murphy, 111 U. S. 488; 28 L. Ed. 492;

Northern Pac. Co. vs. Holmes, 155 U. S. 137; 39 L. Ed. 99;

C. & G. W. R. R. Co. vs. Basham, 249 U. S. 164; 63 L. Ed. 534;

Citizens Bank of Michigan City vs. Opperman, 249 U. S. 448; 63 L. Ed. 701.

V.

STATEMENT DISCLOSING SUBSTANTIAL NATURE OF THE FEDERAL QUESTION PRESENTED

Bain Peanut Company, a private corporation under the laws of Texas, is a citizen of the United States and of the State of Texas under the equal protection clause of the Fourteenth Amendment to the United States Constitution.

Power Manufacturing Company vs. Saunders, 274 U. S. 490; 71 L. Ed. 1165.

The right of a citizen to be sued in the county of his residence is recognized as a valuable right under the Texas decisions, viz:

> "It has been held that the privilege to be sued in the County of one's residence is a valuable right."

Christensen v. Foster, ...Tex. Civ. App. .....; 297 S. W. 657, writ of error denied by State Supreme Court.

A state statute which arbitrarily discriminates against certain classes of citizens is within the reach of the equal protection clause of the Fourteenth Amendment even though merely procedural in nature.

Power Manufacturing Company vs. Saunders, 274 U. S. at 490; 71 L. Ed. 1165.
Truax vs. Corrigan, 257 U. S. 312; 66 L. Ed. 254.

The Supreme Court of Texas, in *Grayburg Oil Company vs. Powell*, ...Texas, ..., 15 S. W. (2d) 542, says:

"Our Statute, Subdivision 23 of Article 1995, R. C. S., * * * covers by its terms all private corporations, associations, or joint stock companies, be they foreign or domestic."

The Austin Court of Civil Appeals in *Dublin Mill & Elevator Company vs. Cornelius*, Tex. Civil App. , 5 S. W. (2d) 1027, states:

"Article 1995 provides as a general rule of venue that no person who is an inhabitant of this state shall be sued out of the county of his residence or domicile, except in certain specified instances not involved here. *There is no exception which permits an individual citizen of Texas to be sued in any county in which a cause of action or a part thereof arises*, but subdivision 23 of the article referred to does provide that 'suits against a private corporation, * * * may be brought in any county in which the cause of action, or a part thereof, arose.'" (Italics ours.)

Therefore the discrimination, which clearly exists, favors individuals, as a class, against all private corpora-

tions, associations or joint stock companies, as a class. The United States Supreme Court in *Power Mfg. Co. vs. Saunders*, 274 U. S. 490; 71 L. Ed. 1165, holds that a discrimination with respect to venue of transitory actions in favor of domestic corporations and individuals, as a class, and against foreign corporations, as a class, "is not theoretical merely, but real and substantial." It is thus seen that the Federal Constitutional question urged on this appeal involves a valuable right of a citizen of the United States, and is of a substantial nature; the sole question to be determined being whether the discrimination between foreign corporations, as a class, and domestic corporations and individuals, as another class, so condemned by the United States Supreme Court is to be held a valid classification as between individual citizens of a state on the one hand and corporations, both domestic and foreign, on the other hand. As bearing also upon the substantial character of the Federal question urged on this appeal, appellants submit the following authorities in support of their contention that Section 23, Article 1995, R. C. S., of Texas is invalid because in conflict with the equal protection clause of the Fourteenth Amendment to the United States Constitution:

Frost vs. Corporation Commission of Oklahoma et al, 278 U. S. 515; 73 L. Ed. 483.

Kentucky Finance Co. vs. Paramount Auto Exchange Co., 262 U. S. 544; 67 L. Ed. 1112.

Liggett Co. vs. Baldridge, 278 U. S. 105; 73 L. Ed. 204.

Power Mfg. Co. vs. Saunders, 274 U. S. 490; 71 L. Ed. 1165.

Quaker City Cab Co. vs. Pennsylvania, 277 U. S. 389; 72 L. Ed. 927.

VI.

FEDERAL STATUTES UNDER WHICH JURISDICTION IS ASSERTED

Appellants therefore submit that this case is one in which a review could have been had in the Supreme Court of the United States upon writ of error under Section 237 of the United States Judicial Code under the Legislation in force when the Act of January 1, 1928, abolishing the writ of error, was passed; and that the United States Supreme Court has jurisdiction to review and reverse the judgment below under Subdivision (a), Section 237, United States Judicial Code, as amended February 13, 1925, because the judgment complained of is the judgment of the highest court of the State of Texas in which a decision could be had herein, where was drawn in question the validity of a statute of the State of Texas on the ground of its being repugnant to the Constitution of the United States, the decision of the State Court being in favor of its validity; and that the United States Supreme Court has jurisdiction to review and reverse the case under Subdivision (b), Section 237, United States Judicial Code, because the judgment complained of is the final judgment of the highest court of the State of Texas in which a decision could be had, where was drawn in question the validity of a statute of the State of Texas on the ground of its being repugnant to the Constitution of the United States and in which the Federal claim was denied.

VII.

PRAYER

Respectfully submitted with the prayer that the United States Supreme Court do exercise its jurisdiction to review the judgment of the court below, and that on final hearing said judgment be reversed and rendered for said appellants.

B. L. Agerton

Counsel for Appellants.

APPENDIX

TITLE 42, REVISED CIVIL STATUTES OF THE STATE OF EXAS

COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE

4—VENUE

Art. 1995. No person who is an inhabitant of this State shall be sued out of the county in which he has his domicile except in the following cases:

1. Married women.—A married woman may be sued in the county in which her husband has his domicile.

2. Transient persons.—A transient person may be sued in any county in which he may be found.

3. Non-residents; residence unknown.—If one or all of several defendants reside without the State or if their residence is unknown, suit may be brought in the county in which the plaintiff resides.

4. Defendants in different counties.—If two or more defendants reside in different counties, suit may be brought in any county where one of the defendants resides. The transfer or assignment of a note or chose in action shall not entitle any subsequent holder to sue thereon in any other county than that in which such suit could have been prosecuted if no assignment or transfer had been made.

5. Contract in writing.—If a person has contracted in writing to perform an obligation in a particular county,

suit may be brought either in such county or where the defendant has his domicile.

6. Executors, administrators, etc.—If the suit is against an executor, administrator or guardian, as such, to establish a money demand against the estate which he represents, the suit may be brought in the county in which such estate is administered.

7. Fraud and Defalcation.—In all cases of fraud, and in all cases of defalcation by public officers, suit may be brought in the county where the fraud was committed or where the defalcation occurred, or any of such suits may be brought where the defendant has his domicile.

8. Attachment, sequestration, etc.—A suit for damages resulting from the suing out of a writ of attachment or sequestration, or for levying any such writ, may be brought in the county from which such writ was issued, or in any county where such levy was made in whole or in part.

9. Crime or trespass.—A suit based upon a crime, offense, or trespass may be brought in the county where such crime, offense, or trespass was committed, or in the county where the defendant has his domicile.

10. Personal property.—Suit for the recovery of personal property may be brought in any county where the property may be or where the defendant resides.

11. Inheritances.—If the defendant has inherited an estate concerning which the suit is commenced, suit may be brought in the county where such estate principally lies.

12. Lien.—A suit for the foreclosure of a mortgage or other lien may be brought in the county where the property or any part thereof subject to such lien is situated.

13. Partition.—Suits for the partition of land or other property may be brought in the county where such land or other property, or part thereof, may be, or in the county in which one or more of the defendants reside, or in the county of the residence of any defendant who may assert an adverse claim to or interest in such property, or seeks to recover the title to the same. Nothing herein shall be construed to fix venue of a suit to recover the title to land.

14. Lands.—Suits for the recovery of lands or damages thereto, or to remove incumbrances upon the title to land, or to prevent or stay waste on lands, must be brought in which the land, or a part thereof, may lie.

15. Breach of warranty.—Suits for breach of warranty of title to lands may be brought in any county where either vendor resides, and all other vendors may be joined in the same suit.

16. Divorce.—Suits for divorce shall be brought in the county in which the plaintiff shall have resided for six months next preceding the bringing of the suit.

17. Injunctions.—Suits to enjoin the execution of a judgment or to stay proceedings in any suit shall be brought in the county in which such judgment was rendered or in which such suit is pending.

18. Revision of probate.—Suits to revise the proceedings of the county court in matters of probate must be brought in the district court of the county in which such proceedings were had.

19. Suits against counties.—Suits against a county shall be brought within such county.

20. Heads of departments.—Suits for mandamus against the head of any department of the State Government shall be brought in Travis County.

21. Corporations: charters.—Suits brought by the State for the purpose of forfeiting the charter of a private corporation chartered by Act of the Legislature, or organized under the laws of this State, and for the purpose of canceling the permit authorizing a foreign corporation to transact business in this State, and for the purpose of restraining corporations from exercising powers not conferred upon them by the laws of this State, and for the purpose of preventing persons from engaging in business in this State contrary to the laws thereof, may be brought in Travis County.

22. Railway lands.—Suits on behalf of the State to forfeit land fraudulently or colorably alienated by railway companies in fraud of the rights of the State, under the laws granting lands to railway companies, shall be brought in Travis County.

23. Corporations and associations.—Suits against a private corporation, association or joint stock company may be brought in any county in which the cause of action, or a part thereof, arose, or in which such corporation, association or company has an agency or representative, or in which its principal office is situated. Suits against a railroad corporation, or against any assignee, trustee or receiver operating its railway, may also be brought in any county through or into which the railroad of such corporation extends or is operated. Suits against receivers of persons and corporations may also be brought as otherwise provided by law.

24. Carriers.—Suits arising from damage or loss to any passenger, freight, baggage or other property, by reason of its transportation, or contract in relation thereto, in whole or in part by one or more common carriers or the assignees, lessees, trustees or receivers thereof, operating or doing business as such in this State, or having agents or representatives in this State, may be brought against one or more of those so doing business, in any county where either does business or has an agent or representative.

25. Railway personal injuries.—Suits against railroad corporations, or against any assignee, trustee or receiver operating any railway in this State, for damages arising from personal injuries, resulting in death or otherwise, shall be brought either in the county in which the injury occurred, or in the county in which the plaintiff resided at the time of the injury. If the defendant railroad corporation does not run or operate its railway in, or through, the county in which the plaintiff resided at the time of the injury, and has no agent in said county, then said suit shall be brought either in the county in which the injury occurred, or in the county nearest that in which the plaintiff resided at the time of the injury, in which the defendant corporation runs or operates its road, or has an agent. If the plaintiff is a non-resident of this State, then such suit may be brought in any county in which the defendant corporation may run or operate its railroad, or have an agent. When an injury occurs within one-half mile from the boundary line dividing two counties, suit may be brought in either of said counties.

26. Railroad wages.—Suits by mechanics, laborers and operatives for their wages due by railroad companies, may

be instituted and prosecuted in any county in this State where such labor was performed, or in which the cause of action, or part thereof, accrued, or in the county in which the principal office of such railroad company is situated.

27. Foreign corporation.—Foreign corporations, private or public, joint stock companies or associations, not incorporated by the laws of this State, and doing business within this State, may be sued in any county where the cause of action or a part thereof accrued, or in any county where such company may have an agency or representative, or in the county in which the principal office of such company may be situated; or, when the defendant corporation has no agent or representative in this State, then in the county where the plaintiffs or either of them reside.

28. Insurance.—Suits against fire, marine or inland insurance companies may also be commenced in any county in which the insured property was situated. Suits on policies may be brought against any life insurance company, or accident insurance company, or life and accident, or health and accident, or life, health and accident insurance company, in the county where the home office of such company is located, or in the county where loss has occurred or where the policyholder or beneficiary instituting such suit resides.

29. Libel or slander.—A suit for damages for libel or slander shall be brought, and can only be maintained, in the county in which the plantiff resided at the time of the accrual of the cause of action, or in the county where the defendant resided at the time of filing suit, or in the county of the residence of defendants, or any of them, or the dom-

icile of any corporate defendant, at the election of the plaintiff.

29a. Two or more defendants.—Whenever there are two or more defendants in any suit brought in any county in this State and such suit is lawfully maintainable therein under the provisions of Article 1995 as to any of such defendants, then such suit may be maintained in such county against any and all necessary parties thereto.

30. Special venue.—Whenever in any law authorizing or regulating any particular character of action, the venue is expressly prescribed, the suit shall be commenced in the county to which jurisdiction may be so expressly given.